

Experian
1401 K Street, NW, Suite 501
Washington, DC 20005
202 682 4610 T
www.experian.com

August 15, 2012

The Honorable Edward J. Markey
U.S. House of Representatives
2108 Rayburn House Office Building
Washington, DC 20515

Dear Representative Markey,

On behalf of Experian, I am pleased to offer the enclosed response to your July 25, 2012 letter. We appreciate your interest in our company's privacy practices and want to help you better understand our business and the importance of responsible information sharing to consumers, e-commerce and the American economy.

Experian Marketing Services (EMS) offers a range of information-based products and services that help organizations better understand, serve and provide relevant products and services to their existing and prospective customers in a timely manner.

Consumer trust and effective stewardship of information is vital to our company's continued success. To this end, all of Experian's business units operate under a core set of Global Information Values — Balance, Accuracy, Security, Integrity, and Communication — that helps us ensure that we account for the privacy and consumer concerns of our information practices. We also comply with scores of Federal and State consumer protection and privacy laws governing the collection and use of consumer information.

We believe that, if done right, responsible information sharing not only significantly enhances economic productivity in the United States, but also provides many benefits to consumers. Shared data brings lower prices and greater convenience to consumers by increasing the growth and competition of small business. It fuels innovation, allowing businesses to meet the preferences and growing demands of consumers. For the Internet, this means providing more and improved content to consumers at no cost.

With this background, below are the key points of the enclosed letter:

- The operations of EMS and the data that it uses are completely separate from Experian's operations as a consumer reporting agency and no eligibility determinations covered by the Fair Credit Reporting Act are made with this data.

- We strive to obtain data only from reputable and trustworthy sources, which generally includes sources such as public records; publicly available sources (i.e. Census Bureau); and permissioned data including consumer surveys, where consumers are provided a notice and opportunity to opt-out of marketing. Likewise, we work hard to ensure that marketing data is shared only for marketing purposes and with legitimate businesses to make sure Experian knows who is receiving this data and that they have reasonable data measures in place.
- EMS provides a wide range of products to legitimate and reputable clients in the private, nonprofit and government sectors. Industries served include retail, catalog, travel and leisure, technology, automotive, financial services, government and non-profits.
- For several reasons, we do not provide consumers with the ability to access and correct the marketing data that we maintain. However, through Experian's Privacy Center website, we provide consumers notice about our practices and their choices for opting-out of our marketing databases. This easy-to-find site is linked from the Federal Trade Commission ("FTC"), several state Attorneys General and consumer advocates. We do not charge a fee to opt-out and only ask that consumers provide limited information so that we can identify their household in order to implement their choices. We do not maintain sufficient personal information to allow adequate authentication for accessing or correcting data. Most information we maintain is publicly available and is typically based on household information. To this end, we agree with the FTC's recent privacy report, which found that when data is used solely for marketing purposes, the possible benefits of providing access and correction rights do not outweigh the costs and risks.
- As a good steward of consumer information, we take data security seriously. We employ measures like employee training, ongoing risk monitoring, encryption of sensitive data and evolving protections to address new and emerging risks. EMS utilizes additional protections for sensitive information, like data on children and the elderly and financial data.
- We do not knowingly collect personally identifiable information about children under 13 online. We obtain U.S. Census data that may indicate the presence of minors in a household, which may be used to send marketing materials to parents. Similarly, we collect information about teenagers aged 13-17 for use in marketing to parents. For teens, we may permit the use of this data only in very specific marketing campaigns.

Experian appreciates your interest in our company's consumer protection measures. We hope that our response provides you with a better understanding of our information-based products and how they benefit our clients, your constituents and the overall economy.

Sincerely,



Tony Hadley

Senior Vice President

Government Affairs and Public Policy

Enclosure to Tony Hadley's Letter dated August 15, 2012

In response to your letter of July 25, 2012, this document provides information about the operations of Experian Marketing Services, which we understand to be the focus of your inquiry. It is initially important to emphasize that Experian Marketing Services operations and data are completely separate from Experian's operations as a consumer reporting agency, which are regulated under the Fair Credit Reporting Act ("FCRA").

Description of Experian Marketing Services

At the outset, we believe it will be helpful to provide a general description of Experian Marketing Services, the data we collect, how it is used, and how these uses benefit consumers. We operate under Experian's core set of Global Information Values that provide a yardstick to ensure that we address the privacy and consumer implications of our information uses.¹ In this effort, we benefit from the advice of our Consumer Advisory Council and Corporate Privacy Council. The Consumer Advisory Council is composed of consumer advocates, academics, and business leaders, while the Corporate Privacy Council is composed of knowledgeable business leaders.

It is essential to bear in mind that marketing databases are not used to "look up" individuals. In general, Experian Marketing Services does not offer marketing lists composed of fewer than 50 addresses. Our marketing records do not pertain to individuals, but rather are stored by address and represent actual or inferred household data. Moreover, much of the information that we maintain is derived from statistical modeling and, accordingly, does not necessarily represent the characteristics of a specific household. It would not be efficient for marketers to seek information on specific individuals even if it were available. Instead, marketers are interested in groups of likely customers that likely share common characteristics, and therefore may have similar interests or preferences. Although marketing techniques have evolved over time, this is the same goal that has driven marketing efforts since well before the computer age.

Benefits to Consumers

Consumers derive many benefits from data-driven marketing. Whereas consumers used to be limited to patronizing the businesses on their local Main Streets, today they can easily seek out promotions across the country. Consumers must make daily choices about how to spend their money among countless companies, products, and services. Because of responsible data sharing, companies can reach the groups of consumers who are most likely to need and enjoy their offerings. This puts more information in the hands of consumers and promotes competition, especially among small businesses, which ultimately drives down prices for all of us.

Sources of Marketing Data

As detailed below, much of our marketing data is obtained from public sources, such as public records and other publicly available information, including summarized U.S. Census data. Companies, nonprofits, and government agencies rely on this data for a host of reasons. Among other uses, our data helps entities to deliver consumer protection messages like recall notices, to find customers who may have moved, to ensure the accuracy of information that their customers have submitted, to decide where to send their advertising, to avoid sending unwanted mail, to

¹ The Global Information Values are available at http://www.experian.com/privacy/global_information.html.

conduct market research, to enhance their ad campaigns, and to improve their products and services. In the online environment, we help companies better understand their customers by providing data that can be linked to website visitors via address data (if a person has chosen to submit this information) or the generalized geographic information derived from a ZIP code or media market level IP address. These activities help organizations operate more efficiently, succeed competitively, and serve consumers better.

Users of Experian Marketing Services

We describe below how Experian takes steps to ensure that our data is shared only with reputable entities for legitimate purposes. Data sources like Experian Marketing Services are particularly valuable for small businesses, which do not have the independent capacity to learn or manage as much information as large businesses. Even large companies, however, rely on third-party data sources in order to market effectively. We also help government agencies to maintain updated addresses for citizens to distribute benefits, and we play a key role in maintaining up-to-date address data in partnership with the U.S. Postal Service.

Definition of “Data Broker”

There is no consensus definition of the term “data broker.” Moreover, in today’s data-driven economy, we believe that it would be difficult to define any such term that does not sweep in a huge swath of the American business community. Experian Marketing Services is just one data provider among many different companies and business models. The Internet economy, which is based upon monetization of consumer data, continues to transform and expand this business model. As you proceed with your examination of privacy issues, we trust that you will consider the entire landscape of today’s data economy, as consumer transparency can only be achieved by understanding the market trends that are reshaping the data industry.

Existing Legal and Regulatory Framework

Existing federal laws, such as the FCRA, regulate many types and uses of consumer data that have potential privacy implications. As discussed further below, there are important differences between these regulated practices and marketing data activities. Where data is used for marketing purposes, the potential negative consequence to consumers of inaccurate information will only be irrelevant advertising and similar marketing uses. For this and other reasons, the Federal Trade Commission has recommended that it is not necessary to provide consumer access and correction for marketing data or to take special steps to ensure the accuracy of such data.² Our responses describe how Experian Marketing Services agrees and complies with Federal Trade Commission recommendations on consumer transparency, control, and data security for marketing data.

Responses to Questions

- 1. Please provide a list of each entity (including private sources and government agencies and offices) that has provided data from or about consumers to you or your contractors or affiliates from January 2009 through the present.*

² Federal Trade Commission, *Protecting Consumer Privacy in an Era of Rapid Change: Recommendations for Businesses and Policymakers* at 30, 65 (March 2012).

Experian Marketing Services is committed to obtaining data only from reputable and trustworthy sources. Our data sources represent sensitive trade secrets but, in general, we receive data from the following types of sources:

- Public records;
- Publicly available sources, such as U.S. census data and directories;
- Private entities that have first given consumers notice and an opportunity to opt into or out of having their data provided (“permissioned data”);
- Individual consumers who choose to fill out surveys, typically in order to receive relevant offers or discounts;
- Consumers who participate in panels, which provide aggregate data on preferences that is then attributed to households, akin to television ratings; and
- Websites that have permission to share information about their visitors.

2. *Please list each type of data you or your affiliates or enterprise partners has collected from or about consumers, including racial, ethnic, or religious information, from January 2009 through the present.*

The public records that we collect include information such as property records, business filings, professional licenses, car or boat registration information, and sports licenses. We obtain a range of demographic information from the U.S. Census, including age, income, family size, presence or absence of children, and education level. This data generally is not matched directly to specific households, but is aggregated and used to model the likely characteristics of households. Experian Marketing Services also obtains aggregate racial and ethnic data from the U.S. Census, which we utilize to model the likely characteristics of households by ZIP code. As previously noted, such modeled data does not necessarily reflect the actual characteristics of a specific household. Experian Marketing Services likewise receives predictive data related to religion or ethnicity from a third party that uses a modeling algorithm.

Consumer-facing companies also provide Experian Marketing Services with marketing information about consumers. Experian Marketing Services’ practice is to avoid using such data unless consumers have received notice and an opportunity to opt out of such sharing, as confirmed by the privacy policies of third parties. Finally, as reflected in our response to Question 1, we also obtain preferences and views directly from consumers who choose to provide such information for marketing purposes, whether through survey campaigns or ongoing consumer panel participation.

3. *Please describe each method by which you have collected information from or about consumers from January 2009 through the present and answer the following questions:*

- a. *Do you use social media to collect information about consumers? If yes, what types of information do you collect from social networks (i.e., friends, interests, etc.)? If yes, from what platforms do you collect this information?*
- b. *Do you collect data on consumers' mobile use and activity? If yes, what types of information do you collect about consumers' mobile use and activity? If yes, for what purposes in this information used (i.e., targeting on real-time ad exchanges)?*

Experian Marketing Services provides advertisers with services enabling relevant advertising, including on social media websites. In many cases, this service is provided for small businesses to reach locally relevant recipients. Experian Marketing Services does not collect data from social networks for the purpose of sharing such data with other entities.

In addition, Experian Marketing Services provides general information on mobile usage from consumer surveys, consumer panels, or other private sources through our syndicated Simmons Market Research Bureau panel. This data can be used to derive and assign inferred household characteristics (e.g. likely number of mobile devices owned) and is available to our clients for marketing purposes. Experian Marketing Services also provides anonymous or otherwise de-identified advertising services for mobile advertising. This data relates to the ZIP or geographic code, similar to data provided in the non-mobile environment. For all data that Experian Marketing Services obtains from private entities, we review applicable privacy policies to verify that consumers received notice and an opportunity to opt out of such sharing.

4. *Please explain each product or service, both online and offline, that you have offered to third parties from January 2009 to the present that uses data collected from or about consumers. For each product or service, please describe:*
 - a. *Each type of data that is used in or by the product or service.*
 - b. *Each type of entity that you sell or otherwise provide the product or service to.*
 - c. *Any prohibitions or restrictions (i.e., contractual, technological, etc.) on the sale or use of the product or service.*
 - d. *Whether or not the products or services involve lead-generation, including the sale of offer clicks or leads. If so, please explain.*
 - e. *Whether or not the products, services, or business practices subject you or any affiliates to the Fair Credit Reporting Act (FCRA). If so, what products or services are subject to FCRA?*
 - f. *Whether or not your company maintains completely separate, firewalled databases or data used for both FCRA and non-FCRA purposes. If used for both purposes, please explain.*

Experian Marketing Services provides a range of continuously-evolving products and services that draw on our marketing data. The primary business lines relevant to your inquiry

are the consumer research resources available through our Experian Simmons division; digital marketing resources available through Experian Hitwise; and consumer data and analytics available through our ConsumerView, Mosaic and Digital Advertising Services business lines. Detailed information on all of our products and services is available on the Experian Marketing Services website, located at <http://www.experian.com/marketing-services/marketing-services.html>.

Our client list is trade secret information. As explained in our introduction, we share data with legitimate and reputable clients across the business, nonprofit, and government sectors, subject to the contractual protections and technical monitoring described in our response to Question 12. Industry sectors served by Experian Marketing Services include retail, catalog, travel and leisure, technology, automotive, financial services, charities and government.

In every marketing data engagement, Experian requires clients to agree to clear contractual limitations on how the data may be used. Experian Marketing Services operations and data are completely separate from the aspects of Experian's operations regulated under the FCRA. Experian Marketing Services has procedures in place and imposes strict contractual limitations to ensure that our marketing data is not used for purposes that would be covered by the FCRA.

5. *Are consumers able to access personal information that is held by your company? If no, why not? If yes:*
- a. How may consumers access this information?*
 - b. What information are consumers given access to: Please list each type of information?*
 - c. How are consumers made aware of their right to access this information?*
 - d. What kinds of personal information are they required to provide to verify their identities?*
 - e. Do your terms of service allow you secondary uses of that verification information? If yes, what uses?*
 - f. How many consumers have requested access and how many requests has your company complied with?*
 - g. How long has your company provided consumers with this access?*

The Federal Trade Commission considered the issue of consumer data access and correction at length in its recent report on *Protecting Consumer Privacy in an Era of Rapid Change*. The Commission adopted a general recommendation that “[c]ompanies should provide reasonable access to the consumer data they maintain; the extent of access should be proportionate to the sensitivity of the data and the nature of its use.”³ Applying this principle

³ *Id.* at 70.

of reasonable and proportional access, the Commission then concluded that “[f]or data used solely for marketing purposes, the Commission agrees with the commenters who stated that the costs of providing individualized access and correction rights would likely outweigh the benefits.”⁴ We agree with the Commission’s rationale.

The fact is that consumer access and correction are not suitable safeguards for marketing data. Experian Marketing Services does not maintain sufficient personal information to allow adequate authentication of an individual who requests access. Even if we could provide access, it would not be meaningful to consumers because our data, as previously described, is often based on modeled or inferred information, or provides general information rather than details (e.g. income ranges rather than exact salaries). Moreover, consumer access and correction are not needed to ensure the accuracy of marketing data. Although Experian Marketing Services strives to maintain accurate data, we agree with the Federal Trade Commission that “companies using data for marketing purposes need not take special measures to ensure the accuracy of the information they maintain.”⁵ The Commission correctly recognized that the only potential “harm” to consumers from inaccurate marketing data would be irrelevant advertising.

For all of these reasons, Experian Marketing Services does not provide a means for consumers to access or change the data we maintain. The Federal Trade Commission supports “the idea of businesses providing consumers with access to a list of the categories of consumer data they hold, and the ability to suppress the use of such data for marketing.”⁶ As further described in our response to Question 7, we promote the approach recommended by the Commission and give consumers the ability to opt out of having their data shared for marketing purposes.

6. *Are consumers able to correct personal information that is held by your company? If no, why not? If yes:*
- a. How many consumers request corrections?*
 - b. How are consumers made aware of their right to correct this information?*
 - c. What kinds of personal information are they required to provide to verify their identities?*
 - d. Do your terms of service allow you secondary uses of that verification information? If yes, what uses?*
 - e. How many consumers have requested corrections and how many has your company corrected?*
 - f. How long has your company provided consumers with this option to request correction?*

⁴ *Id.* at 65.

⁵ *Id.* at 30.

⁶ *Id.* at 65.

Please see our response to Question 5 above.

7. *Are consumers able to opt-out of the use or sharing of personal information about them? If no, why not? If yes:*
- a. Is this a simple, full opt-out or do consumers select from arrange of limited opt-out options? Please describe the various options that are offered.*
 - b. Does this opt-out completely prohibit all uses, including collecting and targeting, or is it limited to an opt-out of targeting?*
 - c. How may consumers opt-out?*
 - d. How are consumers made aware of their right to opt-out?*
 - e. What kinds of personal information are they required to provide to verify their identities?*
 - f. Do your terms of service allow you secondary uses of that verification information? If yes, what uses?*
 - g. How many consumers have requested to opt-out and how many requests has your company complied with?*
 - h. How long has your company provided consumers with the option to opt-out?*

Experian Marketing Services gives consumers the choice to opt out of having their data shared for marketing purposes. These opt-out choices are described in detail on our website Privacy Center (<http://www.experian.com/privacy/>) along with instructions on how to opt out with respect to various products and services. Experian is a household name and is linked from the Federal Trade Commission and many state attorney general and consumer advocacy websites, making us easy for consumers to find.

We do not accept opt-out requests from third parties. The information requested from consumers at the time of opt out varies depending on the product or service involved, but is generally limited. Experian Marketing Services honors opt-out requests within a short time from when we receive the request. We may continue to maintain and share household information for certain limited non-marketing purposes that benefit consumers, such as to locate consumers in order to deliver government benefits to which they are entitled and to provide product safety recall information.

8. *Are consumers able to request the deletion of their personal information? If not, why not? If yes:*
- a. How may consumers request deletion?*
 - b. How are consumers made aware of their right to delete this information?*

- c. *What kinds of personal information are they required to provide to verify their identities?*
- d. *Do your terms of service allow you secondary uses of that verification information? If yes, what uses?*
- e. *How many consumers have requested deletion and how many requests has your company complied with?*
- f. *How long has your company provided consumers with this option to request deletion?*

Experian Marketing Services permits consumers to opt out of having their household information shared for marketing purposes as described above. This opt-out results in a suppression of the use of this household data; however, we must continue to maintain a record pertaining to that household in order to maintain a record of the consumer's choice. Otherwise, the record would be reestablished the next time we received data for that household, which would defeat the consumer's choice. We may also continue to maintain and share household information for certain limited non-marketing purposes that benefit consumers, such as to locate consumers in order to deliver government benefits to which they are entitled and to provide product safety recall information.

- 9. *Does the company charge consumers a fee for any access, correction, opt-out, or deletion services? If yes, state the amount the company charges for each service. If yes, what is the total revenue earned by the company through such fees during each of the last five years?*

Experian Marketing Services does not charge consumers any fee to exercise the choices we offer.

- 10. *How does your company store each type of data collected from or about consumers (please distinguish between types of data, if applicable)? What security measures do you have in place to safeguard the data collected?*

Experian Marketing Services data is stored in electronic form. While we cannot provide details on our security measures without compromising the effectiveness of those measures, Experian Marketing Services takes data security very seriously for both competitive and consumer protection reasons. We support and comply with the Federal Trade Commission's approach to data security, which the Commission has defined — through enforcement actions and policy statements — as a "reasonableness" test.⁷ In keeping with this approach, Experian Marketing Services employs security measures to protect our data, taking into account the size and complexity of our business, the nature and scope of our activities, and the sensitivity of the data we maintain. These measures include employee training, ongoing risk monitoring, and evolving security protections designed to address risks as they are identified. As part of these protections, information considered sensitive is maintained with additional security measures. This includes data related to children and the elderly and financial data.

⁷ See, e.g., Prepared Statement of the Federal Trade Commission on Data Security Before the Senate Committee on Commerce, Science and Transportation 7 (September 22, 2010).

- 11. What encryption protocols or other security measures do you put in place to prevent the loss of or acquisition of data that is transferred between your company and outside entities?*

Consistent with the approach described in our response to Question 10, we employ reasonable security measures to protect data in transit from Experian Marketing Services to other entities.

- 12. What review process do you have in place for entities who wish to purchase personal information from you (i.e., do you evaluate their data security measures or whether the entity is a legitimate business)? Do you conduct any follow-up audits? If not, why not? If yes, please describe the nature and timing of these audits.*

Experian Marketing Services works hard to ensure that we share marketing data only with legitimate and reputable businesses. We require data recipients to employ reasonable data security measures and we impose limits on how our data may be used. We employ effective monitoring measures, like “seeding” our lists, to ensure that our clients honor these data use restrictions. We periodically review our clients’ marketing materials to make sure their criteria are consistent with and appropriate for the intended use. If we believe that a client is using Experian data in a manner that does not comply with applicable laws, industry codes or contracts, we will pursue corrective action, up to and including termination of the relationship. Further, all of Experian’s business units operate under a core set of Global Information Values — Balance, Accuracy, Security, Integrity, and Communication — that helps to ensure that we account for the privacy and consumer implications of our information practices.

These precautions are not only good for consumers, they are good for business. Experian Marketing Services has a powerful incentive to maintain the trusted reputation we have earned in the marketplace.

- 13. Do you provide notice to consumers about your data collection, use, or sharing practices? If no, why not? If yes, please describe how you provide this notice.*

Yes, Experian Marketing Services provides detailed consumer notice about our practices on our website (http://www.experian.com/privacy/prod_serv_policy.html). Consumers can use this one-stop resource to review the privacy practices applicable to our products and services, exercise their opt-out choices through easy-to-use tools, or contact us about privacy or other issues. Due to our separate role as a consumer reporting agency, Experian is a household name and is linked from the Federal Trade Commission and many state attorney general and consumer advocacy websites, making us easy for consumers to find. In addition, Experian publishes an annual national newspaper ad that notifies consumers of their right to opt-out. While the ad primarily focuses on opting-out from pre-screen products, it helps to publicize opt-out options for consumers.

- 14. Does your company compile information from or about children or teens? If yes:*

a. Do you also sell or otherwise provide this information to another entity?

- b. Do you distinguish between information about children ages 12 and under from information about teenagers ages 13-17?*
- c. Are different procedures in place to allow children and teens to access, correct, or delete their personal information, or opt-out of sharing of this personal information? If not, why not?*

Experian Marketing Services does not knowingly collect personally identifiable information about children under 13 online. As noted above, we obtain U.S. Census data that indicates the presence or absence of minors in a household. Experian Marketing Services does not permit the use of this data to market directly to children, but it may be used to market to parents likely to be interested in children's products.

Similarly, Experian collects information about teenagers aged 13-17 for use in marketing to parents. From time to time, we may permit the use of this data in specific marketing campaigns likely to interest teenagers, such as prom specials or class rings.

For the reasons discussed above in our response to Question 5, we do not have data access, correction, or deletion procedures for marketing data. Consistent with Federal Trade Commission recommendations, consumers may opt out of having their household data shared for marketing purposes, including any data related to children or teenagers in the household.

* * *